

Representative Douglas C. Aagard proposes the following substitute bill:

REPORTING OF FRAUDULENT INSURANCE

ACTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas C. Aagard

Senate Sponsor: Sheldon L. Killpack

LONG TITLE

General Description:

This bill modifies the Insurance Code to address reporting of fraudulent insurance acts.

Highlighted Provisions:

This bill:

- ▶ expands required reporting of fraudulent insurance acts;
- ▶ modifies the requirements of that report;
- ▶ modifies penalties; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-31-105, as enacted by Chapter 243, Laws of Utah 1994

31A-31-110, as enacted by Chapter 104, Laws of Utah 2004



26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **31A-31-105** is amended to read:

28 **31A-31-105. Immunity.**

29 (1) (a) A person, insurer, or authorized agency is immune from civil action, civil
30 penalty, or damages when in good faith that person, insurer, or authorized agency:

31 (i) cooperates with~~;~~ an agency described in Subsection (1)(b);

32 (ii) furnishes evidence~~;~~ to an agency described in Subsection (1)(b);

33 (iii) provides ~~[or receives]~~ information regarding suspected insurance fraud to ~~[or~~
34 ~~received from:]~~ an agency described in Subsection (1)(b);

35 (iv) receives information regarding suspected insurance fraud from an agency
36 described in Subsection (1)(b); or

37 (v) submits a required report to the department under Section 31A-31-110.

38 (b) The agency referred to in Subsection (1)(a) is one or more of the following:

39 ~~[(a)]~~ (i) the department or any division of the department;

40 ~~[(b)]~~ (ii) any federal, state, or government agency established to detect and prevent
41 insurance fraud; or

42 ~~[(c)]~~ (iii) any agent, employee, or designee of an ~~[entity]~~ agency listed in this
43 Subsection ~~[(1)(a) or]~~ (1)(b).

44 (2) A person, insurer, or authorized agency is immune from civil action, civil penalty,
45 or damages if that person, insurer, or authorized agency complies in good faith with a court
46 order to provide evidence or testimony requested by the entities described in ~~[Subsections~~
47 ~~(1)(a) through (1)(c)]~~ Subsection (1)(b).

48 (3) This section does not abrogate or modify common law or statutory rights,
49 privileges, or immunities enjoyed by any person or entity.

50 (4) Notwithstanding any other provision in this section, a person, insurer, or service
51 provider is not immune from civil action, civil penalty or damages under this section if that
52 person commits the fraudulent insurance act that is the subject of the information.

53 Section 2. Section **31A-31-110** is amended to read:

54 **31A-31-110. Mandatory reporting of fraudulent insurance acts.**

55 ~~[(1) An auditor that is employed by a title insurer and that has knowledge that a~~
56 ~~fraudulent insurance act]~~

57 (1) (a) A person shall report a fraudulent insurance act to the department if:
58 (i) the person has a good faith belief on the basis of a preponderance of the evidence
59 that ~~H→~~ [~~an act that~~] **a fraudulent insurance act** ~~←H~~ is being, will be, or has been committed
59a [related to title insurance shall report
60 the fraudulent act to the commissioner in a writing that provides] ~~H→~~ [**is a fraudulent**
60a **insurance act**] ~~←H~~ ;
61 and
62 (ii) the person is:
63 ~~H→~~ [(A) ~~an insurer;~~
64 ~~(B) a producer;~~
65 ~~(C) a limited line producer;~~
66 ~~(D) a customer service representative;~~
67 ~~(E) a consultant;~~
68 ~~(F) a managing general agent;~~
69 ~~(G) an insurance adjuster;] (A) an insurer; ~~←H~~ or~~
70 ~~H→~~ [(~~H~~) (B) ~~←H~~ in relation to the business of title insurance, an auditor that is
70a employed by a title
71 insurer.
72 (b) The written report required by this Subsection (1) shall:
73 (i) provide information in detail relating to:
74 [~~(a)~~] (A) the fraudulent insurance act; and
75 [~~(b)~~] (B) the perpetrator of the fraudulent insurance act[:]; and
76 (ii) (A) state whether the person required to report under Subsection (1)(a) also
77 reported the fraudulent insurance act in writing to:
78 (I) the attorney general;
79 (II) any state law enforcement agency;
80 (III) any criminal investigative department or agency of the United States;
81 (IV) a district attorney; or
82 (V) the prosecuting attorney of any municipality or county; and
83 (B) if the person reported the fraudulent insurance act as provided in Subsection
84 (1)(b)(ii)(A), to which entity the person reported the fraudulent insurance act.
85 (c) The written report required by this Subsection (1) shall be reported to the
86 department by no later than 90 days from the day on which the person required to report the
87 fraudulent insurance act has a good faith belief on the basis of a preponderance of the evidence

88 that the act that is being, will be, or has been committed is a fraudulent insurance act.

89 ~~[(2)(a) Any auditor required to report a fraudulent insurance act under Subsection (1)~~
 90 ~~who willfully fails to comply with Subsection (1) is guilty of a class B misdemeanor.]~~

91 ~~[(b)]~~ (2) (a) An action for failure to comply with Subsection (1) shall be commenced
 92 within four years from the date on which [the auditor employed by the title insurer:] a person
 93 described in Subsection (1):

94 ~~[(i) had knowledge of the]~~

95 (a) has a good faith belief on the basis of a preponderance of the evidence that an act
 96 described in Subsection (1)(a) is a fraudulent insurance act; and

97 ~~[(ii)]~~ (b) willfully [failed] fails to report the fraudulent insurance act.

98 (3) The department ~~H→~~ [shall] may ~~←H~~ by rule made in accordance with Title 63,
 98a Chapter 46a, Utah

99 Administrative Rulemaking Act, provide a process by which ~~H→~~ [an insurer and an individual
 100 described in Subsection (1)(a)(ii) may comply with Subsection (1) by submitting a single report
 101 of an act described in Subsection (1)(a):] a person described in Subsection (1)(a)(ii) may comply
 101a with the requirements of Subsection (1) by reporting a fraudulent insurance act to the insurer
 101b with whom the person is employed, except that the rule shall provide that if the person reports
 101c the fraudulent insurance act to the insurer, the insurer is required to report the fraudulent
 101d insurance act to the department. ~~←H~~

102 (4) A person described in Subsection (1)(a)(ii) who in good faith makes a report under
 103 this section is immune from civil action, civil penalty, or damages for making that report in
 104 accordance with Section 31A-31-105.

104a ~~H→~~ (5) This section does not apply to a fraudulent insurance act related to health
 104b insurance. ~~←H~~

H.B. 126 1st Sub. (Buff) - Reporting of Fraudulent Insurance Acts

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Local governments may see an increase in reported fraud cases. Insurance adjustors, as individuals or businesses, will have to report fraud to various criminal investigative agencies.
